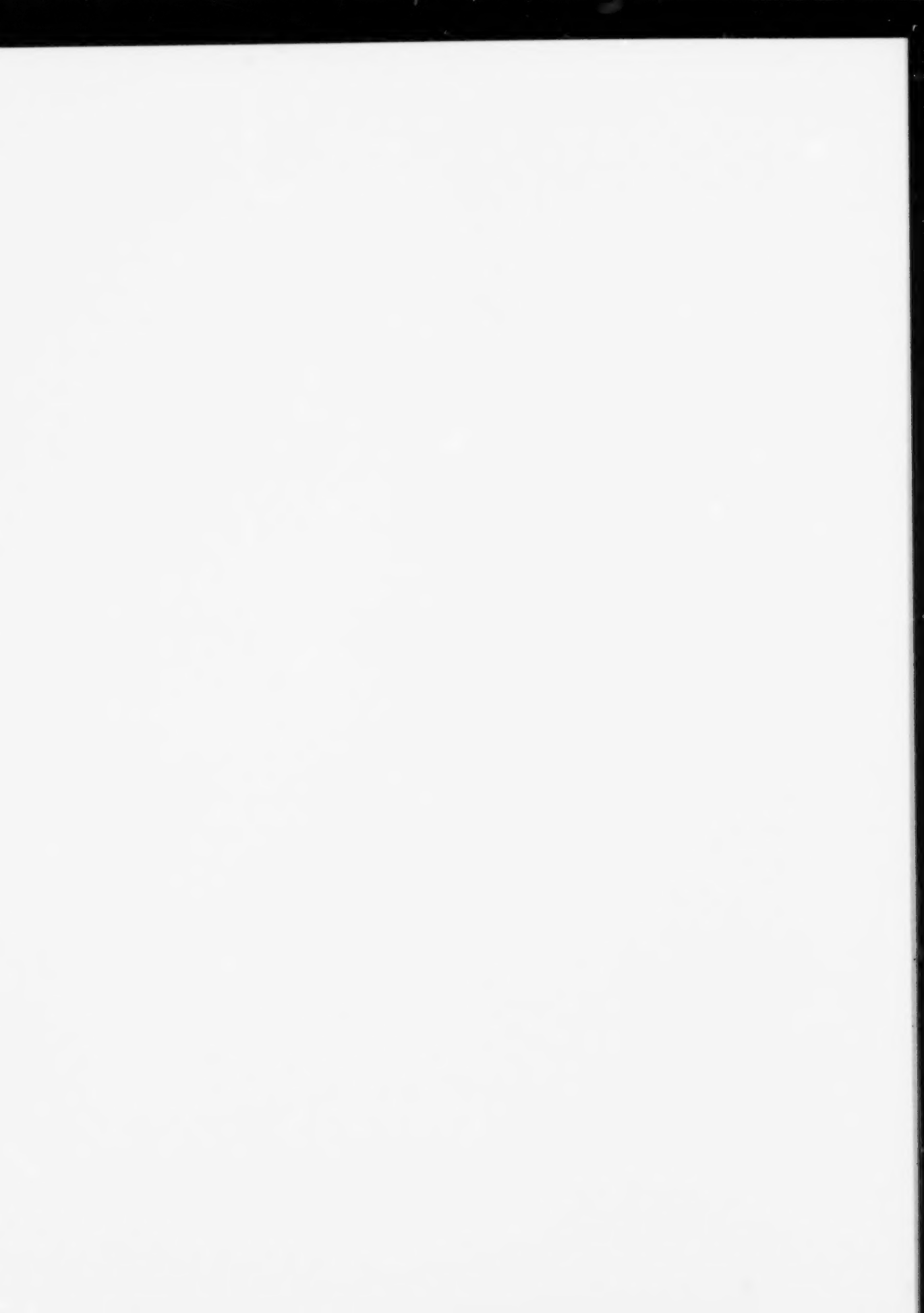


2002 ANNUAL REPORT



Nova Scotia Police Commission





**Police
Commission**

P.O. Box 1573
1601 Lower Water Street,
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Halifax, NS B3J 2Y3

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July 5, 2005

The Honourable Michael Baker, Q.C.
Minister of Justice
4th Floor, 5151 Terminal Road
P.O. Box 7
Halifax, NS B3J 2L6

Dear Minister:

I have the honour to submit to you the Annual Report of the Nova Scotia Police Commission for the calendar year 2002, pursuant to the provisions of Section 9 of the *Police Act*, R.S.N.S. 1989, Chapter 348. I have also attached a copy of the auditor's financial statement for the Commission as at March 31, 2002.

Thank you for your continued support for the work of the Commission.

Yours truly,

Nadine Cooper Mont

Chairman

NCM/pjw



Mission Statement

The mission of the Nova Scotia Police Commission is to deliver judicious, timely, impartial, client-oriented service to the public, to the police services, and to the police officers within its jurisdiction.

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Published in conventional and electronic form by the Nova Scotia Police Commission
 Research & Design: Pamela J. Whittaker & E. Garry Mumford
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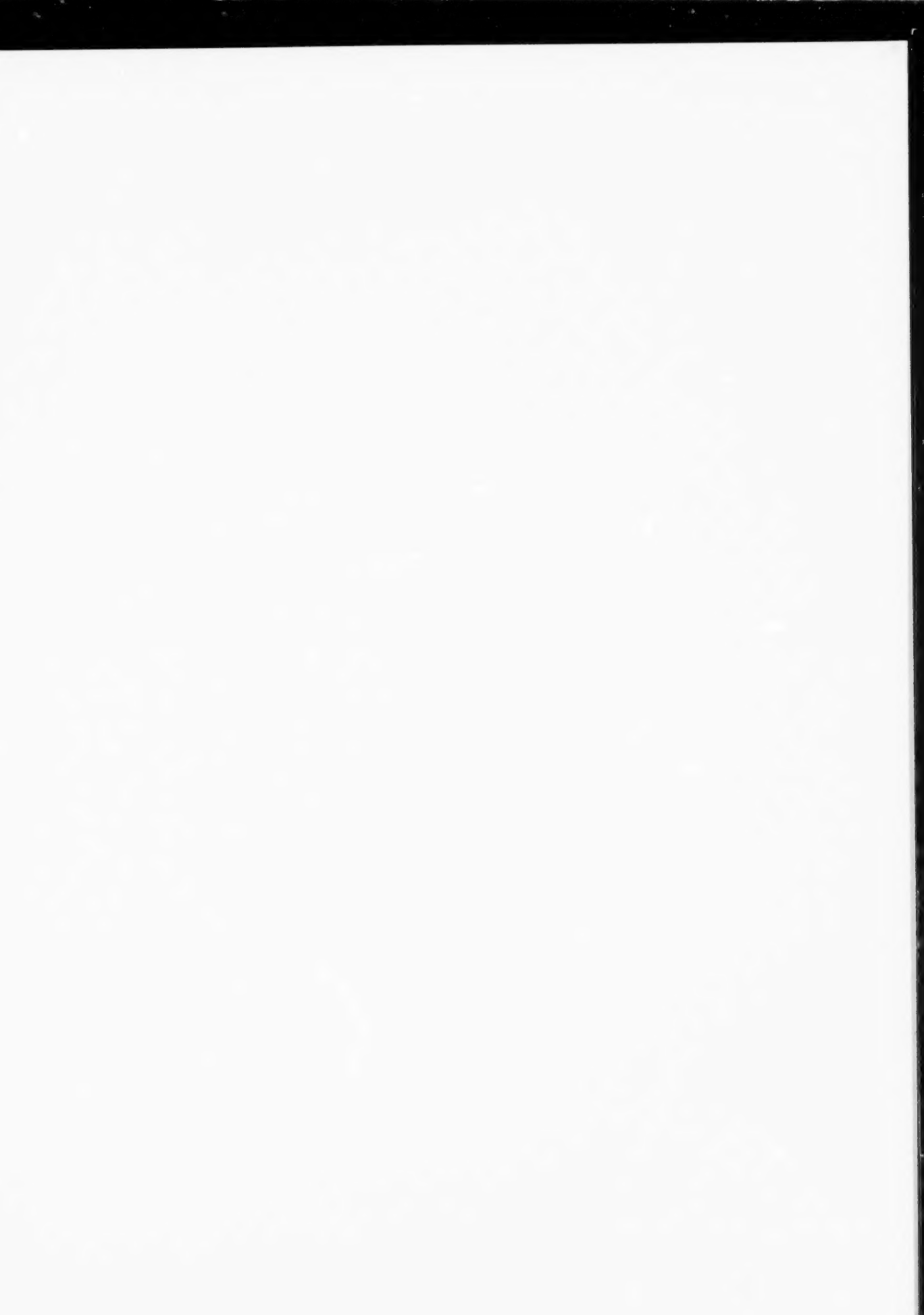
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Role of the Commission

The primary role of the Nova Scotia Police Commission and Police Review Board is to investigate and conduct hearings into citizens' complaints alleging misconduct by municipal police officers. The Commission's Police Review Board is also empowered to hear and rule on police officer's appeals against disciplinary penalties or dismissals that are imposed or ordered by chiefs of police and boards of police commissioners.

The responsibilities of the Nova Scotia Police Commission are outlined in Sections 5 and 5(A) of the Police Act which states that: "The Nova Scotia Police Commission shall perform the functions and duties assigned to it by the Police Act, the Governor-in-Council or the Minister of Justice".

These responsibilities include the following:

- 1) consult with and advise boards of police commissioners and other police authorities and chiefs of police on all matters relating to public complaints and internal discipline;
- 2) conduct investigations and inquiries in accordance with the Act;
- 3) provide investigative and administrative support to the Review Board; and
- 4) make recommendations with respect to amendments to the Act or the Regulations, or to any other enactment dealing with law enforcement.

According to Section 8 of the *Police Act*, when requested by a board of police commissioners, or directed by the Minister of Justice, the Nova Scotia Police Commission is also required to investigate the conduct and performance of any member of a municipal police force, the administration of any police force, the system of policing in any municipality, and the policing needs of a municipality.

Furthermore, the Nova Scotia Police Commission, when directed by the Minister of Justice, is responsible for inquiring into any matter relating to the extent, investigation or control of crime as well as the enforcement of law.



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Administrative History

The Nova Scotia Police Commission was established by proclamation of the *Police Act* in 1976. At that time, the Police Commission reported to the Attorney General; it was responsible for improving the effectiveness of municipal police forces and relations between the police and the public. Initially the Police Commission provided a large number of services relating to provincial policing and security including:

- 1) development and approval of training programs for police officers;
- 2) development of programs to improve public awareness of police functions, duties and responsibilities;
- 3) maintenance of statistics and research services;
- 4) determinations of the adequacy, efficiency, and effectiveness of the police services provided by municipalities;
- 5) recommendations for appointment or re-appointment of Provincial Civil constables, Special Constables, and By-Law Enforcement Officers; and
- 6) other duties under the Private Investigators and Private Guards Act and the Police Services Act.

In 1992, changes to the *Police Act* resulted in the re-organization and re-orientation of the Nova Scotia Police Commission. The majority of the services listed above were transferred to the Police and Victim Services Division of the Department of the Solicitor General. These services are now the responsibility of the Department of Justice. The Police Commission retained its responsibility for investigating into matters relating to the conduct and performance of duties by police, the administration of a police force, the system of policing in municipalities, and the police needs of municipalities.

The Police Commission investigates, and when appropriate, attempts to negotiate a resolution to public complaints upon an appeal by the complainant. If the investigator determines that the complaint has merit he/she will recommend a full hearing before the Nova Scotia Police Review Board.

Where the Police Commission's investigator cannot satisfactorily resolve a complaint, or has determined the complaint does not merit a complete review by the Nova Scotia Police Review Board, he/she may refuse to recommend a hearing. The complainant may seek an order to refer the complaint to the Police Review Board by appealing the decision of the investigator to the full body of the Police Commission.

The Nova Scotia Police Review Board was established through amendments to the *Police Act* in the mid-1980's. It replaced the Police Commission as the adjudicating body for citizen complaints and for appeals against decisions made in internal discipline matters. The Board also conducts hearings into matters of internal discipline that are referred to it by the Police Commission. The Chairman of the Police Commission also acts as the Registrar of the Police Review Board, and the Police Commission is responsible for providing all of the administrative support needed by the Police Review

Commission & Review Board Members

Under the provisions of Section 4(1) of the Police Act, the Commission is composed of not less than three persons appointed by the Governor-in-Council.

As of December 31, 2002 the members of the Police Commission and Police Review Board were:

Members of the Police Commission		Members of the Police Review Board	
Nadine Cooper Mont	Chair	Brian S. Creighton	Chair
Denise Mentis-Smith	Vice Chair	Marion Ferguson	Alternate Chair
Paul D. Gates	Member	Orville Symonds	Alternate Member
Betty Thomas	Member	Brian McIntosh	Alternate Member
Frances Hinton	Member		
Daniel Paul	Member		

Commission Staff

E. Garry Mumford
 Pamela J. Whittaker
 Norma MacDonald

Director
 Coordinator to the Commission & Review Board
 Secretary to the Director

Staff Offices



The Nova Scotia Police Commission offices are located at Summit Place, 1601 Lower Water Street, Suite 300, Halifax, Nova Scotia.

Mailing Address: P. O. Box 1573
 Halifax, Nova Scotia B3J 2Y3

Telephone: (902) 424-3246
 Facsimile: (902) 424-3919
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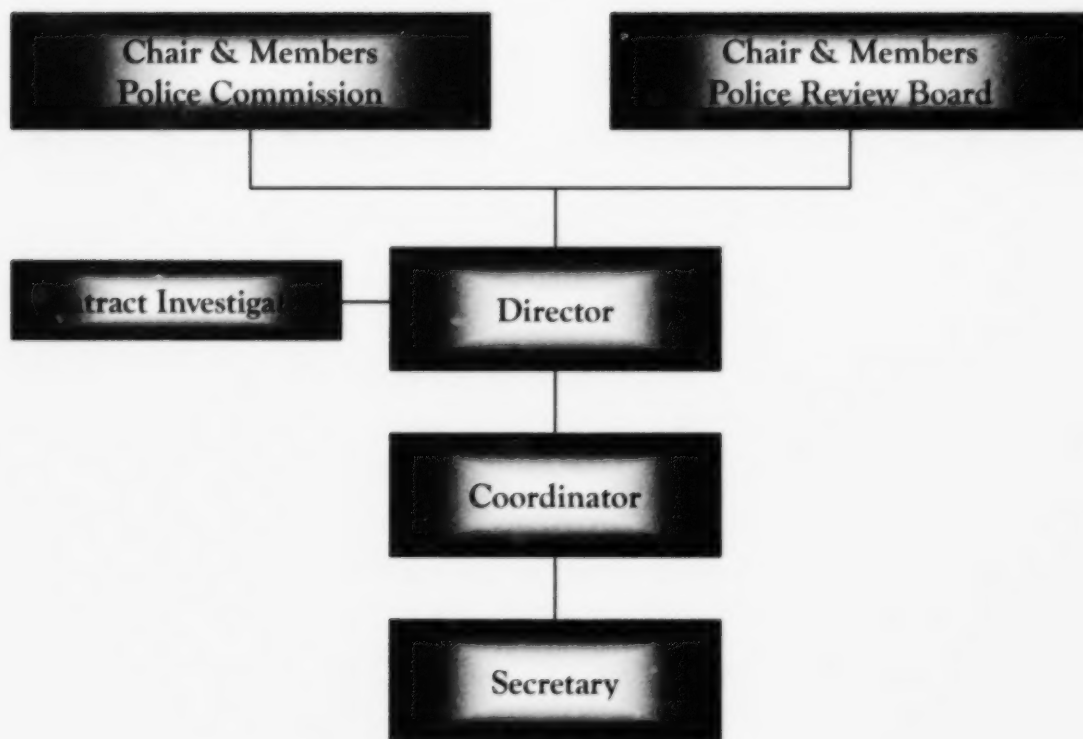


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Organization Chart



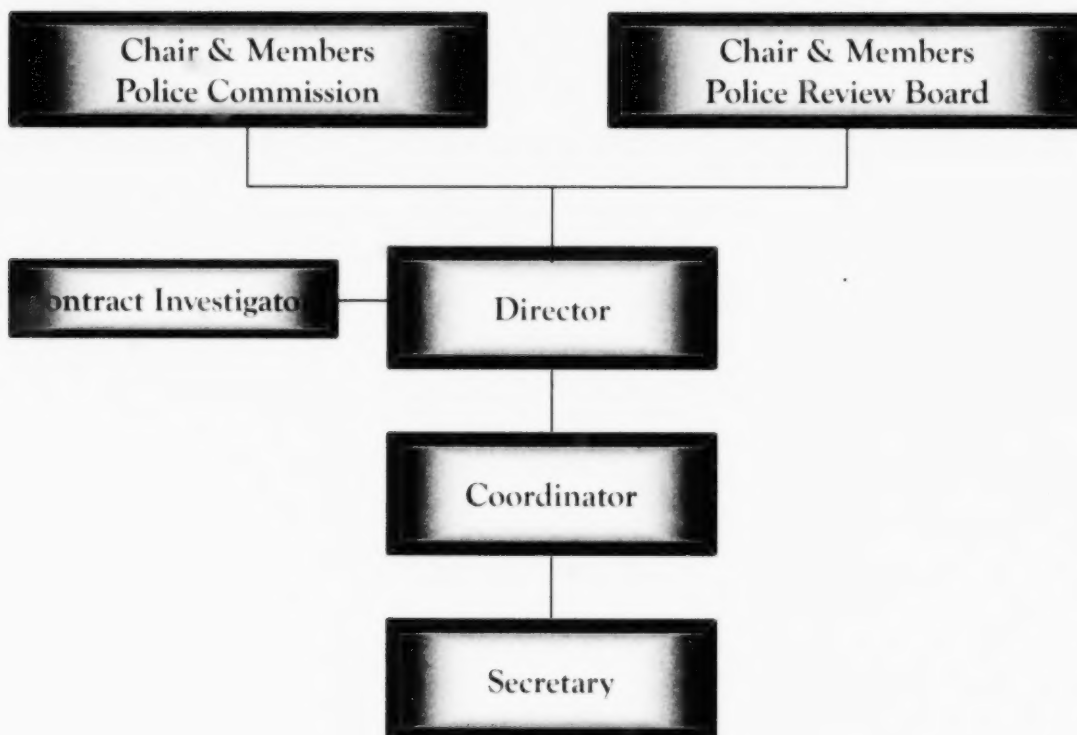
Activities of the Commission

During the reporting year the Commission met to review appeals submitted to it as outlined in Section 15 of the *Police Act* Regulations, and also to attend to regular business items. Three meetings were held in 2002. In those three meetings the Commission, in its quasi-judicial function, heard eight appeals arising from the Commission investigator's decisions not to refer these matters to the Police Review Board. In all eight cases the Commission upheld the investigator's decision to not refer the complaint to the Police Review Board for a hearing.

As Director of the Nova Scotia Police Commission, Mr. E. Garry Mumford routinely represents the Police Commission at various meetings and conferences. Among the events and/or presentations he attended or hosted in 2002 are the following:

- September 16 - Gave presentation to candidates of Officer Safety Course, Shearwater, NS
- September 17/22 - Attended Annual CACOLE conference in St. John's, NL
- September 24 - Meeting with D. Morrison, past president of CACOLE in Halifax
- November 23 - Made presentation to NS Association of Police Boards in Truro
- December 7 - Made presentation to NS Association of Police Boards in Dartmouth

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Ministerial Inquires

Pursuant to Section 8 of the *Police Act* the Minister of Justice, the Honourable Michael G. Baker, Q. C. , directed the Nova Scotia Police Commission to conduct two inquiries.

Dean Richard Inquiry

In the early morning hours of July 7, 1996, 22-year-old Dean Richard of Lower Sackville, N.S. was critically injured as a result of a tragic motor vehicle accident on Highway 102 near the exit for Highway 103 located in the Halifax Regional Municipality. Mr. Richard had been a passenger in a vehicle that overturned and he was thrown onto the highway near the median. Within a very short time span, another vehicle driving by the accident scene, struck Mr. Richard and he became entangled in the undercarriage of this vehicle which dragged him some distance. Sadly, on the following day, Dean Richard died as a result of his injuries. Shortly thereafter, his parents, Charles and Karen Richard, started seeking answers to many questions they had concerning what actually happened at the accident scene and the follow up Halifax Regional Police investigation. In their view, the answers they received created more questions than answers; they subsequently asked the Minister of Justice to order a public inquiry. The Minister did so on the 29th of March, 2000.

Minister Baker directed the Commission to inquire into and report to him, as soon as is practicable, on matters relating to the death of Dean Richard as the result of a traffic accident or accidents which occurred on Highway #102 in the Halifax Regional Municipality on or about July 7, 1996.

He further defined the scope of the inquiry as follows:

- inquire into, investigate, and report upon any external or internal investigations, analyses, reviews, assessments, evaluation, carried out by the Halifax Regional Police Service, or any member or employee thereof, and which are, directly or indirectly, related to the death of Dean Richard;
- inquire into, investigate, and report upon all investigations, analyses, reviews, assessments, evaluations and audits carried out by any component of the Government of Nova Scotia, or any employee thereof, and which are, directly or indirectly, related to the death of Dean Richard;
- inquire into, investigate and report on matters described in sub-section 8(2)(a) & (b) of the *Police Act* and which the Commission determines is necessary for the purposes of this inquiry and which are, directly or indirectly, related to the death of Dean Richard.

all of the applicable provisions of the *Police Act*. R.S., c.348, s. 1 and the Public Inquiries Act. 1992, c.28, s.5 shall be available to the Commission in the discharge of its duties and functions during the course of this inquiry.

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all of the applicable provisions of the *Police Act*. R.S., c.348, s. 1 and the *Public Inquiries Act*. 1992, c.28, s.5 shall be available to the Commission in the discharge of its duties and functions during the course of this inquiry.

During the course of the investigation hundreds of pages of documents related to this matter were obtained, reviewed and catalogued by Commission staff. Commission investigator Dennis Squires was contracted to lead the investigation and Jean McKenna was engaged as counsel.

The Chair of the Commission, M. Jean Beeler, conducted the inquiry. It entailed hearing the evidence of 33 witnesses. On December 10, 2002 final arguments were heard orally from counsel.

James Guy Bailey Inquiry

Shortly before 9:00 p.m. on May 16, 2000, James Guy Bailey Jr. of Sydney Mines, N.S. was arrested by a member of the Cape Breton Regional Police Service for being intoxicated in a public place. He was subsequently incarcerated in the police cells at the Central Lock Up of the Cape Breton Regional Police H.Q.'s in Sydney. Shortly before 2:00 a.m. on May 17, 2000, the on duty jail guard found Mr. Bailey to be unresponsive. He did not respond to emergency resuscitation efforts at the jail and was transported to the emergency department of the Cape Breton Regional Hospital where he was pronounced dead at about 2:45 a.m.

On the 25th of January, 2001 pursuant to Section 8 of the Police Act, the Honourable Michael G. Baker, the Minister of Justice and Attorney General, in and for the Province of Nova Scotia, directed the Nova Scotia Police Commission to inquire into and report to him on matters related, either directly or indirectly, to the death of James Guy Bailey. Minister Baker further directed that the scope of the inquiry would be as follows:

- inquire into, investigate and report on any of the matters described in clauses 8 (2)(a) & (b) of the Police Act and which the Commission determines are, directly or indirectly, related to the death of James Guy Bailey;
- inquire into, investigate, and report upon the involvement of any member of the Cape Breton Regional Police Service or any of its employees, or of any other person who, as determined by the Commission, may have information related, directly or indirectly, to the death of James Guy Bailey;
- inquire into, investigate, and report upon all investigations, documents, reports, files reviews analyses, assessments, evaluations, and related material (including material retained in electronic format, and/or video recordings, and/or voice recordings), which the Commission determines may be relevant to this inquiry;
- inquire into, investigate and report whether there was compliance with applicable statutes, regulations, orders, rules or directions;
- inquire into, investigate and report upon any matter which the Commission determines may be relevant to this inquiry.

During the course of the investigation in excess of 100 people were interviewed either through the Cape Breton Regional Police Service investigation, the Ontario Provincial Police investigation or through the Commission's investigation. Hundreds of pages of documents related to this matter were obtained, reviewed and catalogued by Commission staff, all of which was disclosed to the various legal counsels.

M. Jean Beeler was named as Chair of the Inquiry. Ms. Beeler selected two other Commission members, Betty Thomas and Frances Hinton to sit on the Inquiry with her. Commission investigator Dennis Squires led this investigation, and Jean McKenna was engaged as counsel. Ms. McKenna's principal task was organizing the presentation of witnesses and exhibits. As well, she acted as advisor and legal counsel to the Commission and to the Inquiry.

The Director of the Police Commission, Gary Mumford, co-ordinated the efforts of the investigation and the preparation for public hearings. The Executive Secretary, Pamela Whittaker (Little), compiled and distributed the documents, and organized dates and venues for the proceedings.

On October 22, 2001 a preliminary meeting was held in Sydney, Nova Scotia with all counsels involved in the proceedings. Pursuant to the *Police Act*, persons likely to be directly affected by the investigation or inquiry were entitled to reasonable legal fees for their necessary representation throughout the course of the inquiry. In all, the Commission identified ten parties. During the preliminary meeting, all of the material collected during the three investigations was released to the parties.

The evidentiary part of the Inquiry began with a three week sitting in February 11, 2002 followed by two weeks in October and a further week in November in Sydney, Nova Scotia. Additional sessions were set down to continue hearing the balance of the evidence in 2003.

Public Complaints & Internal Discipline

The table below depicts the number of public complaints and internal disciplinary matters received from each of the 12 municipal police departments over the last two years by the Nova Scotia Police Commission.

Department	2001		2002	
	PC	ID	PC	ID
Amherst	9	2	12	2
Annapolis Royal	0	0	1	0
Bridgewater	6	0	6	0
CBRPS	45	2	30	4
Hantsport	1	1	X	X
HRPS	50	26	62	15
Kentville	2	1	1	0
Lunenburg/Mahone Bay	0	0	X	X
Middleton	0	0	X	X
New Glasgow/Westville	5	0	7	0
Springhill	11	1	4	0
Stellarton	2	3	3	0
Trenton	5	0	0	1
Truro	5	7	13	8
Unama'ki	2	0	X	X
Not Commission Jurisdiction	0	0	1	0
Totals	143	43	140	30

PC = Public Complaints

ID = Internal Discipline

* Note: On October 1, 2002 Westville Police Service separated from the New Glasgow Police Service. The municipal police forces of Lunenburg/Mahone Bay, Hantsport and the Unama'ki Tribal Police were contracted out to the RCMP

Public Complaints & Internal Discipline

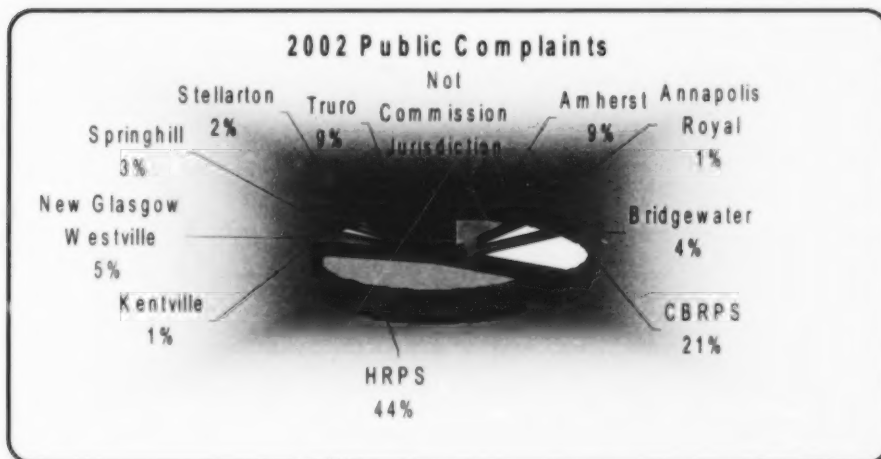
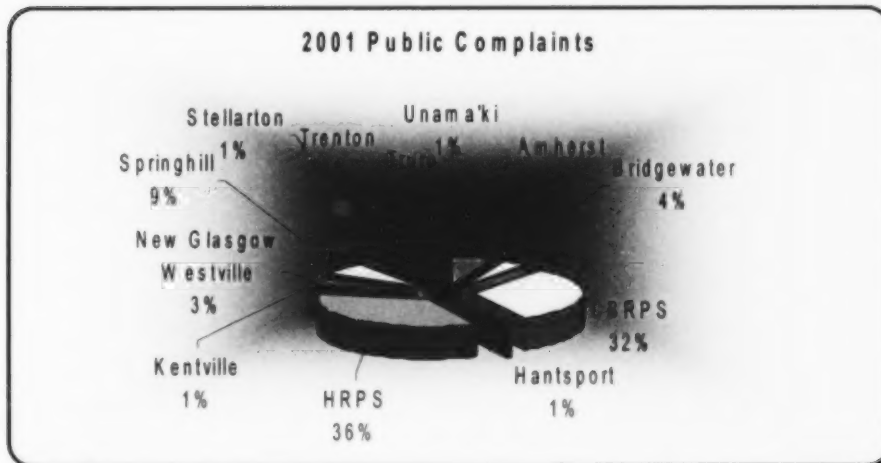
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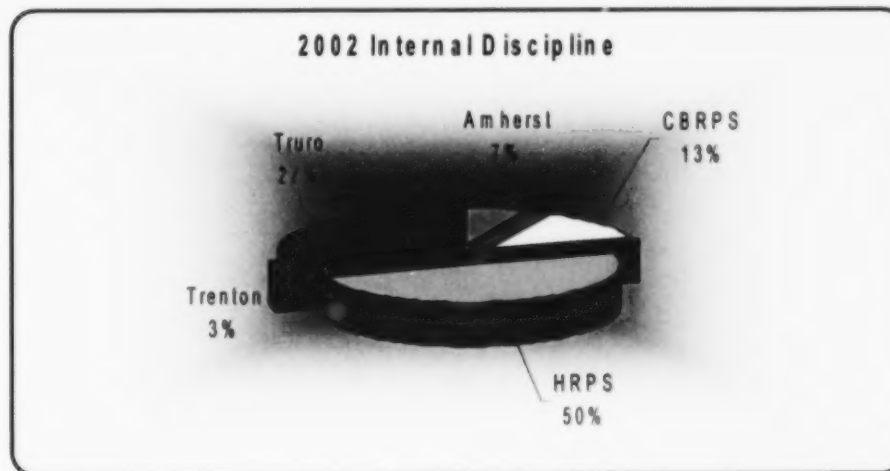
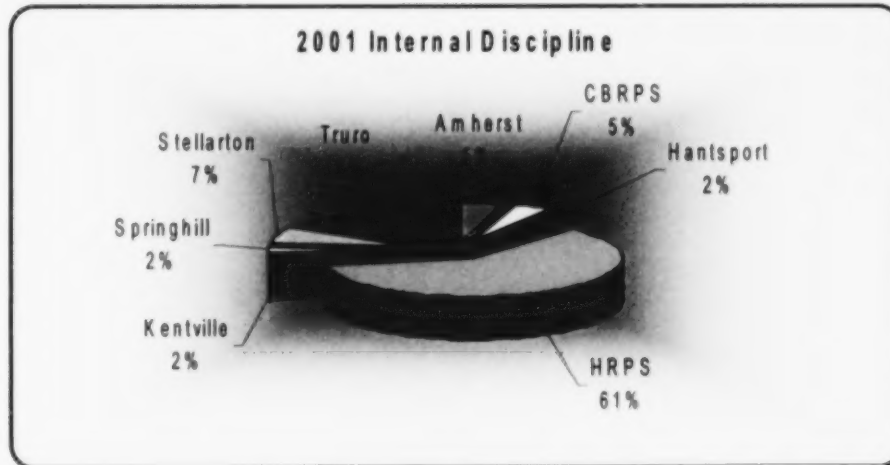
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Public Complaints - A total of 140 public complaints were received in 2002. This represents a 2% decrease over the number filed with the Commission in 2001.

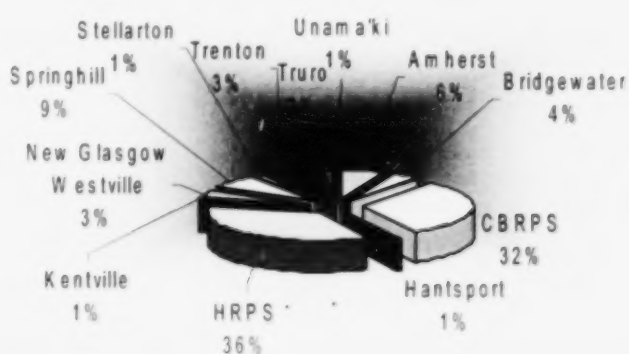


Internal Discipline - A total of 30 internal disciplinary matters were received in 2002. This represents a 30% decrease from the number filed with the Commission in 2001.

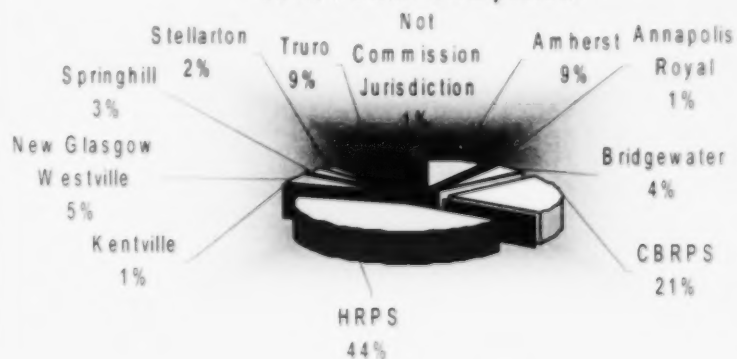


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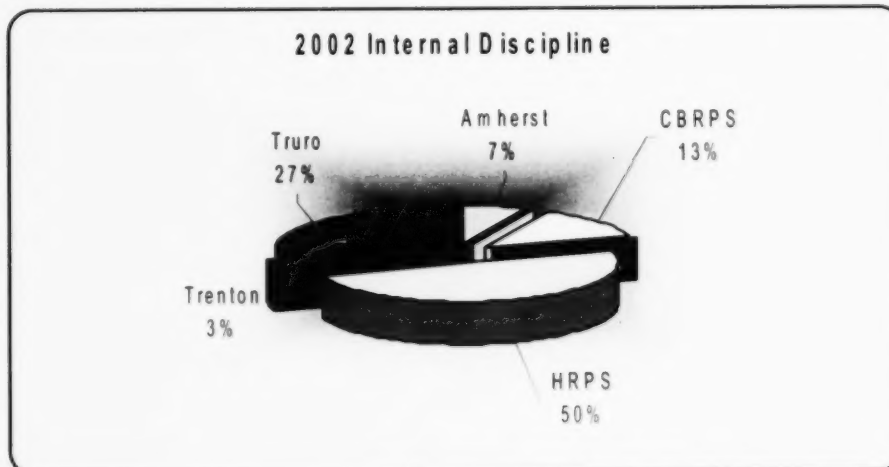
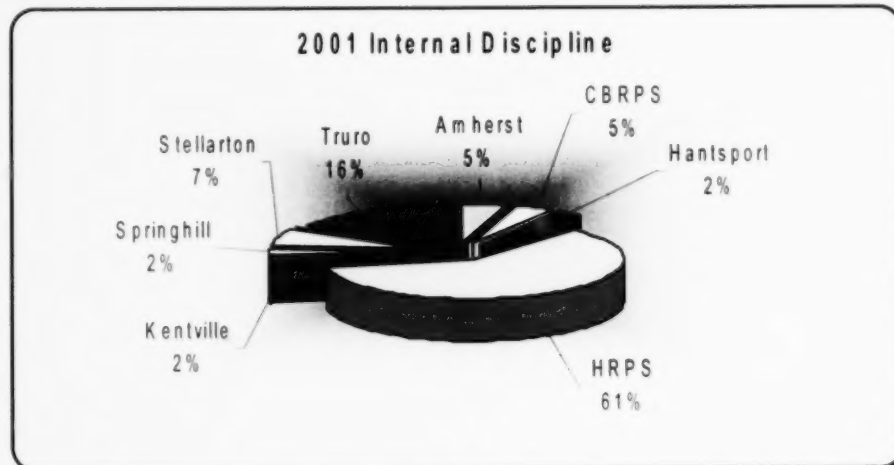
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2002 Public Complaints



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Allegations & Founded Defaults

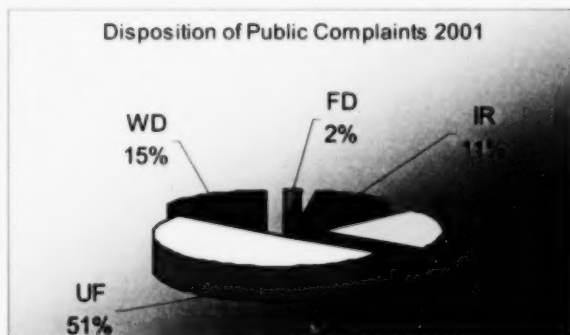
A complaint may contain several allegations. Therefore, in order to more accurately reflect the nature of complaints the table below indicates the total number of allegations captured from both the public and internal files opened in 2002.

Abrev.	Alleged Defaults	Public	Founded	Internal	Founded
AA	Abuse of Authority	101	0	6	1
CP	Corrupt Practice	1	0	4	1
ED	Engages in Deceit	5	0	8	1
DC	Discreditable Conduct	69	2	27	1
ID	Improper Disclosure	5	0	3	0
IUF	Improper use of Firearm	0	0	0	0
INS	Insubordination	0	0	4	1
ND	Neglect of Duty	51	1	17	3
PE	Public Expectation	6	0	0	0
DP	Damages Property	0	0	0	0
HRA	Human Rights Act	4	0	3	0
CLD	Consumes Liquor or Drugs	0	0	0	0
	Totals	242	3	72	8

Disposition of Public Complaints

Disposition - Public	Abbreviation	2001	2002
Founded	FD	3	2
Informal Resolution	IR	16	28
Other ⁽¹⁾	OT	30	31
Still Under Investigation ⁽³⁾	SUI	0	1
Unfounded ⁽²⁾	UF	73	59
Withdrawn	WD	21	19
	Total	143	140

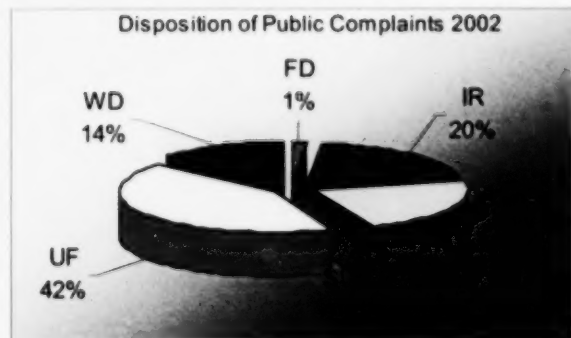
Disposition of Public Complaints 2001



These graphs illustrate the percentage of complaints filed with the Nova Scotia Police Commission in 2001 and 2002 and their disposition at the time of the printing of this report.

- (1) Other includes: Filed beyond eligible time period, extensions not granted, officers resigned, criminally investigated or the department has abandoned the complaint.
- (2) Unfounded: can result from: (a) investigated and deemed unfounded at the department level; (b) not appealed by the complainant.
- (3) Still Under Investigation: includes at the Department level, the Commission level or awaiting hearing.

Disposition of Public Complaints 2002



Allegations & Founded Defaults

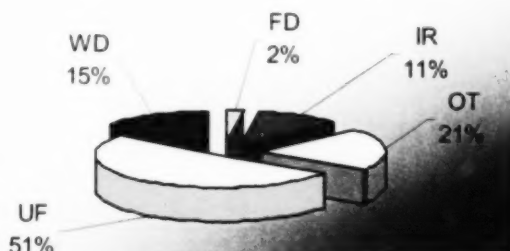
A complaint may contain several allegations. Therefore, in order to more accurately reflect the nature of complaints the table below indicates the total number of allegations captured from both the public and internal files opened in 2002.

Abrev.	Alleged Defaults	Public	Founded	Internal	Founded
AA	Abuse of Authority	101	0	6	1
CP	Corrupt Practice	1	0	4	1
ED	Engages in Deceit	5	0	8	1
DC	Discreditable Conduct	69	2	27	1
ID	Improper Disclosure	5	0	3	0
IUF	Improper use of Firearm	0	0	0	0
INS	Insubordination	0	0	4	1
ND	Neglect of Duty	51	1	17	3
PE	Public Expectation	6	0	0	0
DP	Damages Property	0	0	0	0
HRA	Human Rights Act	4	0	3	0
CLD	Consumes Liquor or Drugs	0	0	0	0
	Totals	242	3	72	8

Disposition of Public Complaints

Disposition - Public	Abbreviation	2001	2002
Founded	FD	3	2
Informal Resolution	IR	16	28
Other ⁽¹⁾	OT	30	31
Still Under Investigation ⁽³⁾	SUI	0	1
Unfounded ⁽²⁾	UF	73	59
Withdrawn	WD	21	19
	Total	143	140

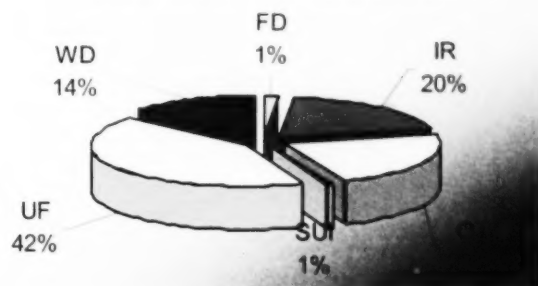
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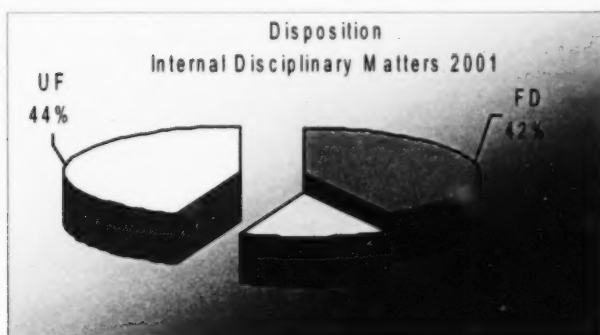
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- (2) Unfounded: can result from: (a) investigated and deemed unfounded at the department level; (b) not appealed by the complainant.
- (3) Still Under Investigation: includes at the Department level, the Commission level or awaiting hearing.

Disposition of Public Complaints 2002



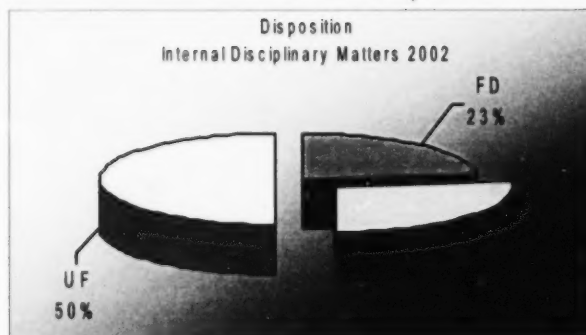
Disposition of Internal Disciplinary Matters

Disposition - Internal	Abbreviation	2001	2002
Founded	FD	18	7
Awaiting Review Board Hearing	ARBH	0	0
Other ⁽¹⁾	OT	6	8
Still Under Investigation	SUI	0	0
Unfounded	UF	19	15
Total		43	30



These graphs illustrate the percentage of internal disciplinary matters filed with the Nova Scotia Police Commission in 2001 and 2002 and their disposition at the time of the printing of this report.

1. Other includes: Abandoned with no decision by the authority or officer resigned or retired before a decision could be made.

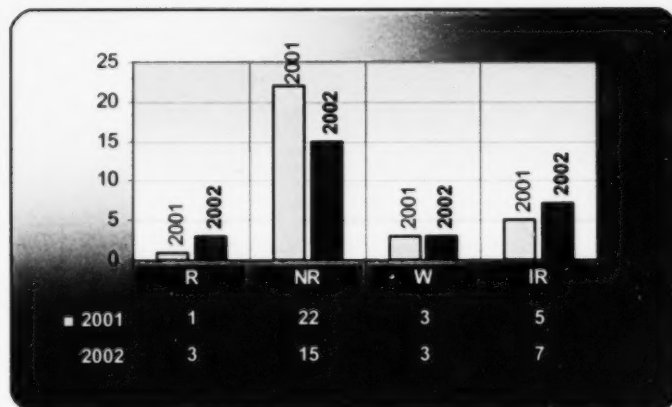


Appeals to the Commission

The Police Commission investigated 28 appeals by complainants on matters that were filed in 2002 which were not sustained at the department level. Commission Investigators were successful in informally resolving 7 of the complaints, obtained 3 withdrawals ⁽¹⁾, and referred 3 to the Nova Scotia Police Review Board ⁽²⁾.

Of the 15 complaints the Commission's investigators did not refer to the Review Board, 5 were appealed by the complainants to the Commission for an order requesting that they be referred to the Review Board. The Commission did not overrule any of the investigators.

Legend	Abbreviation	2001	2002
Investigator referred the complaint to Police Review Board	R	1	3
Investigator did not refer complaint to Police Review Board	NR	22	15
Complaint withdrawn	W	3	3
Complaint informally resolved by investigator	IR	5	7
% of complaint not referred		71	53

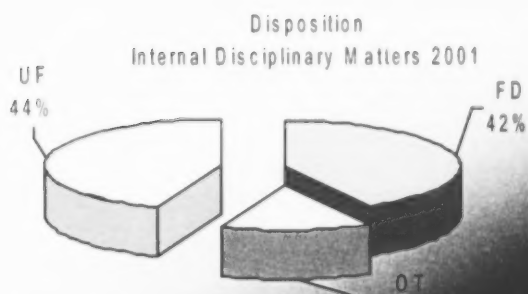


(1) One of the complaints that was referred to the Review Board by the commission's investigator was withdrawn by the complainant before the matter could be set for hearing. The above table shows the final disposition of that matter as being withdrawn.

- (2) One of the complaints forwarded to the Board by the Commission's investigator has not been set for a hearing at the request of the complainant until criminal proceedings have been completed. The remaining two matters were heard by the Board and were not sustained.

Disposition of Internal Disciplinary Matters

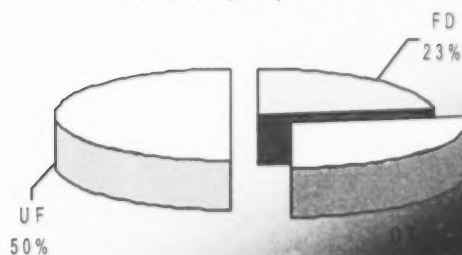
Disposition - Internal	Abbreviation	2001	2002
Founded	FD	18	7
Awaiting Review Board Hearing	ARBH	0	0
Other ⁽¹⁾	OT	6	8
Still Under Investigation	SUI	0	0
Unfounded	UF	19	15
Total		43	30



These graphs illustrate the percentage of internal disciplinary matters filed with the Nova Scotia Police Commission in 2001 and 2002 and their disposition at the time of the printing of this report.

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Disposition
Internal Disciplinary Matters 2002

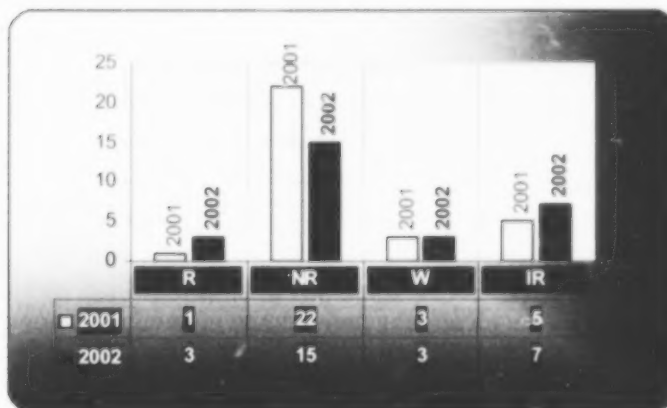


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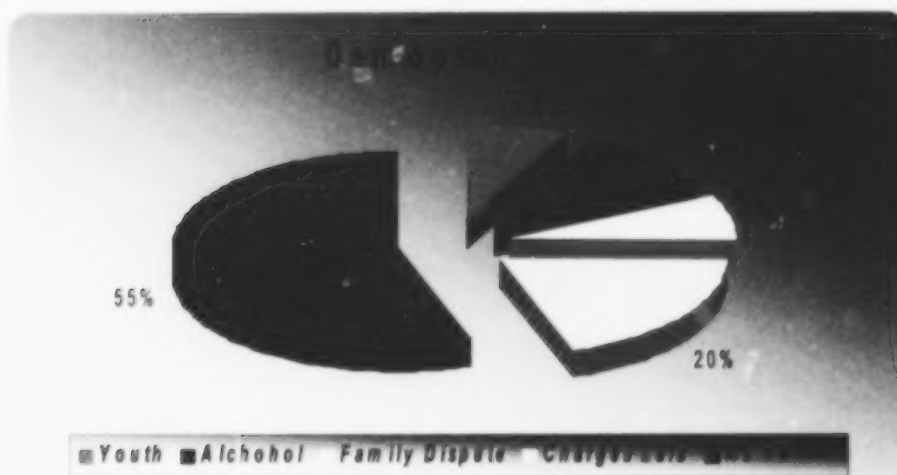
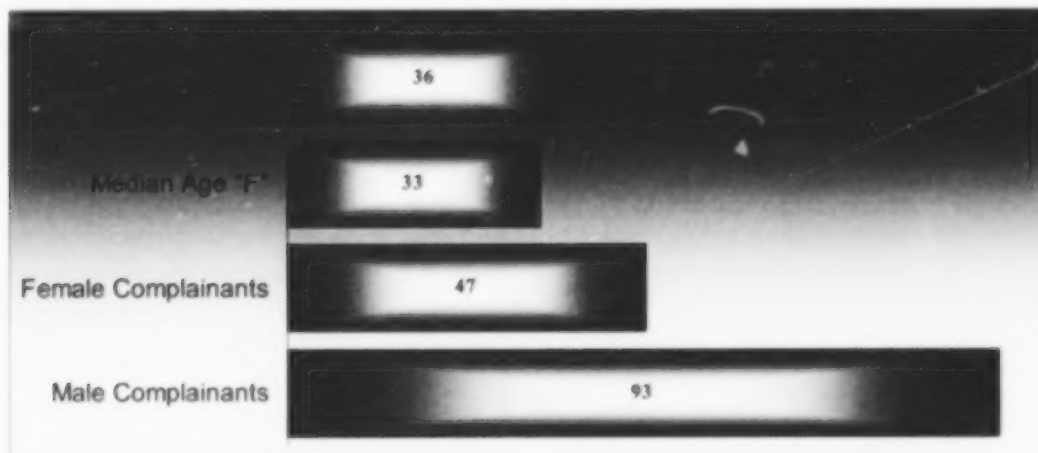
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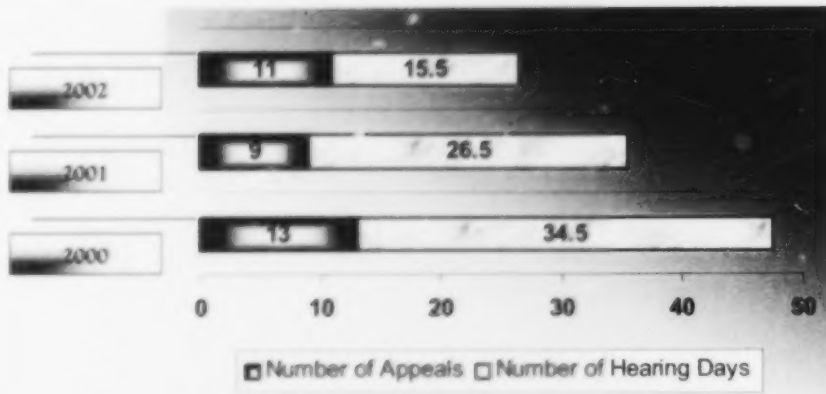
Demographics

In 2002 there were 47 complaints filed by women with a median age of 33. Men accounted for the other 93 public complaints filed; their median age is 36.

The chart shown below indicates the actual number of instances in 2002 where there were reports of alcohol involvement, youth involvement, charges laid; and/or family disputes on the part of the complainants or other parties. In 55% of the cases no single factor could be identified. All data was collected from the Complaint Form or from investigation reports.



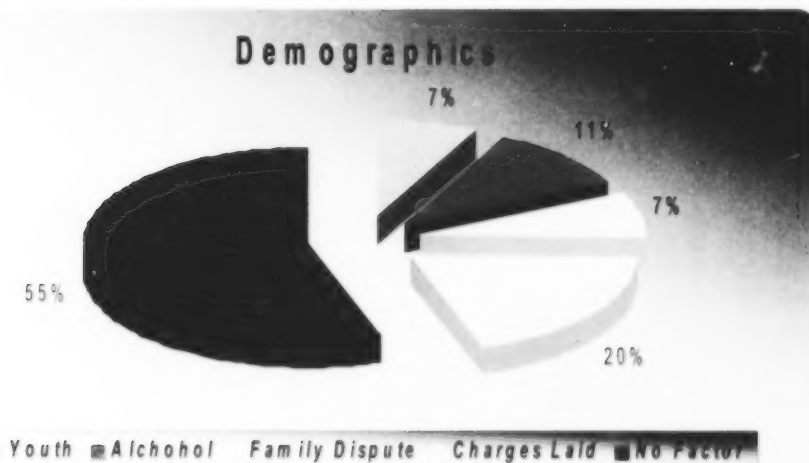
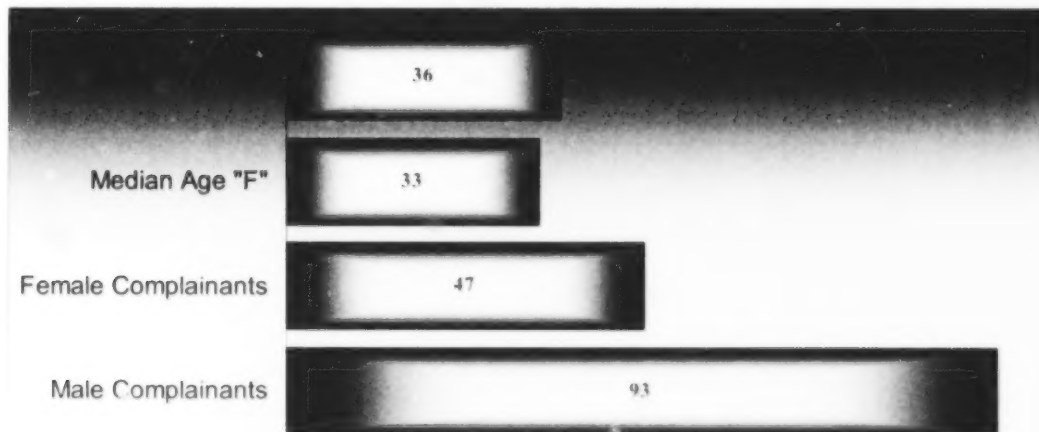
Police Review Board Hearing



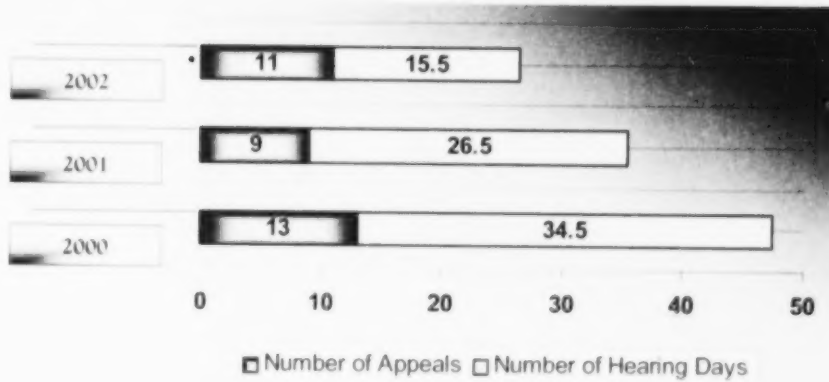
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Police Review Board Hearings



Unworthy Police Review Board Decision

Case No 1: Appeal of a disciplinary decision as a result of an internal allegation.

Nature of Complaint: Neglect of duty: by failing to promptly, properly or diligently perform a duty, and engaged in deceit by willfully or negligently making a false, misleading or inaccurate statement or entry in an official document or record.

Hearing Dates: **Merits:** December 12, 13,14, 17, 18, 19, 20, 2001.
 Penalty: March 27, 28, 2002

Before: Mr. Brian Creighton, Chair
 Mr. Brian McIntosh, Member
 Mr. Orville Symonds, Member

Counsel: Mr. David Bright on behalf of the named officer
 Ms. Sandra Arab on behalf of the authority

Date of Decisions: **Merits:** February 19, 2002
 Penalty: May 29, 2002

Summary of Decisions:

These proceedings came before the Board as a result of an appeal by a constable of the Halifax Regional Police who had been dismissed. The Board heard evidence that as a result of a complaint about one of the constable's files, an audit was commenced. The Department's investigator discovered a large number of files which concerned him and as a result six allegations were made against the constable. Upon the conclusion of the investigation, the disciplinary authority for the department, the Deputy Chief, rendered a series of penalties for each of the allegations. The penalty for the first allegation was a reprimand, with each additional allegation escalating in severity with the final decision being a demand that the officer resign or he would be dismissed. The constable admitted to the Deputy Chief that he had been neglectful but denied that he had been deceitful. The constable refused to resign and was dismissed by the Deputy Chief.

Worthy Police Review Board Decision

Case No 1: Appeal of a disciplinary decision as a result of an internal allegation.

Nature of Complaint: Neglect of duty: by failing to promptly, properly or diligently perform a duty, and engaged in deceit by willfully or negligently making a false, misleading or inaccurate statement or entry in an official document or record.

Hearing Dates: **Merits:** December 12, 13,14, 17, 18, 19, 20, 2001.
 Penalty: March 27, 28, 2002

Before: Mr. Brian Creighton, Chair
 Mr. Brian McIntosh, Member
 Mr. Orville Symonds, Member

Counsel: Mr. David Bright on behalf of the named officer
 Ms. Sandra Arab on behalf of the authority

Date of Decisions: **Merits:** February 19, 2002
 Penalty: May 29, 2002

Summary of Decisions:

These proceedings came before the Board as a result of an appeal by a constable of the Halifax Regional Police who had been dismissed. The Board heard evidence that as a result of a complaint about one of the constable's files, an audit was commenced. The Department's investigator discovered a large number of files which concerned him and as a result six allegations were made against the constable. Upon the conclusion of the investigation, the disciplinary authority for the department, the Deputy Chief, rendered a series of penalties for each of the allegations. The penalty for the first allegation was a reprimand, with each additional allegation escalating in severity with the final decision being a demand that the officer resign or he would be dismissed. The constable admitted to the Deputy Chief that he had been neglectful but denied that he had been deceitful. The constable refused to resign and was dismissed by the Deputy Chief.

During the course of the hearing the Review Board heard evidence on how case files are administered. There is a computer file where activity is tracked and there is also the physical file, which contains the documentation required for prosecution and/or for the records section of the Halifax Regional Police. The evidence indicated that the constable reported the completion of investigations to the computer as required, however he neglected to ensure that the hard files were delivered to his squad sergeant for review and closure. The constable had no explanation as to why he simply didn't submit the files other than neglectfulness and had no actual recollections as to why the files were not delivered.

The Deputy Chief concluded that the constable's failure in submitting these files was both negligent and deceitful. The burden in these proceedings was on the Halifax Regional Police to provide evidence to show that the constable was more than neglectful. There is a continuum of conduct from negligence to deceit (or fraud), with gross negligence and willful disregard for the truth representing the middle of the continuum. The Board noted that management felt deceived by the failure of the constable to deliver the physical files as required. However, belief that you have been deceived is not in itself proof that there was deceit. The Board found that the constable was negligent in his duties to deliver his files upon completion, but concluded there was no cogent evidence presented to support the allegations of deceit .

The Board was provided with submissions and heard evidence by counsel of both parties to the proceedings on what penalty should be given. In assessing a penalty against the constable, the Board considered the issues as identified in recent jurisprudence. The Board canvassed the issues as outlined by Paul Ceyssans' Legal Aspects of Policing, C. 5, p. 101. The Board concluded that because the issue of deceit was not founded they could not penalize the officer on this more serious offense. The Board also noted that there were avenues available by way of performance reviews to monitor any continued neglects of duty by this officer. Therefore, the Board varied the penalty of dismissal and suspended the constable without pay for a period of five days. The board also reinstated the constable's pay during the period of his termination.

Case No 2: Appeal of a disciplinary decision as a result of a public complaint

Nature of Complaint: Abused authority: by using unnecessary force on or cruelly treating any prisoner or other person with whom the member may be brought into contact in the execution of a duty, and engaged in corrupt practice by failing to properly account for, or make a prompt or true return of, any money or property received by the member in the course of duty,

Hearing Dates: June 19, 2002

Before: Mr. Brian Creighton, Chair
Mr. Brian McIntosh, Member
Ms. Marion Ferguson, Member

Counsel: Mr. David Fisher on behalf of the named officers
Complainant on behalf of herself

Date of Decisions: Oral Decision June 19, 2002,
Written Decision September 9, 2002.

Summary of Decision: The complainant alleged that during her confinement in the cells at the Bridgewater Police Department, she was denied medical care. She also alleged that the officers, who had access to her car keys during the time she was arrested, removed \$1,200.00 in cash from her purse. The purse was located in the trunk of her car.

On Saturday, September 25, 1999 approximately 2:30 p.m. the complainant was detained by a security guard for allegedly shoplifting at the Zeller's store in Bridgewater. Two constables arrived and placed her in custody. The complainant refused to identify herself to the store security or to the police, because she did not want her parents or boyfriend to discover that she had been charged with shoplifting. Therefore, she could not be released from custody until she was identified.

Two of the jailers on duty gave evidence that they did not recall the complainant asking for any medication although one did recall being asked by one of the officers to contact the mall security to see if anything had been located in the area where the complainant was arrested. Apparently, the complainant had told one of the offi-

cers that she thought she had dropped an envelope. This envelope contained a card from her boyfriend and money. The jailer stated she recalled the complainant telling her there was somewhere around \$500.00 in it. The Technician stated she did contact the Zeller's Store Security and they informed her that they did not find anything nor had anything been turned in. When the Technician relayed this information to the complainant, the complainant told her that she must have left the money on her dresser in Halifax.

Upon starting their shift the next morning, two constables were asked to escort the complainant to the South Shore Regional Hospital. The doctor at the hospital requested one of the constables to retrieve the complainant's medication from her car, and return it to the hospital. The constable stated he retrieved the bag and brought it back to the hospital at which time it was opened in the presence of the Doctor. The complainant was given her medication by the doctor, who then released her to the police to be returned to the cells. The complainant was released later that day after her identification was established.

An occurrence report made a few days later indicated that the complainant telephoned the Bridgewater Police Department to report that she was missing some money. The complainant stated to the officer who took the call that she was not alleging any of the police officers took the money, but that it was missing and she had to report it for insurance purposes.

The Board found there was nothing unlawful about the complainant being kept in the Bridgewater cells until she could be identified. The evidence was that she could have been released at any time if she had cooperated with the police. The Board also found that the complainant did not ask for medical assistance until between 6:00 a.m. and 7:00 a.m. on September 26th. When she did, her request was acted upon and she was taken to the hospital. There is insufficient evidence to establish that there was any money in the complainant's automobile. Consequently, the Board could not even consider the possibility that any of the officers complained of could have removed it. The Board, dismissed the complaint against the officers.

Case No 3:	Appeal of a disciplinary decision as a result of an internal complaint
Nature of Complaint:	Insubordination: by word or action, or disobeying or omitting or neglecting to carry out a lawful order without adequate reason
Hearing Dates:	October 11, 2002
Before:	Mr. Brian Creighton, Chair Mr. Brian McIntosh, Member Ms. Marion Ferguson, Member
Counsel:	Mr. David Fisher on behalf of the named officers Mr. John Rafferty - on behalf of Truro Police Service The Complainant Staff Sergeant - on behalf of himself
Date of Decisions:	October 28, 2002.

Summary of Decision: On the 19th day of February, 2002, a staff sergeant with the Truro Police Service made a complaint by filing a written statement with the Chief of police that alleged a constable of the same department had committed a disciplinary default. The complaint was not sustained and the staff sergeant appealed to the Nova Scotia Police Review Board in accordance with *Nova Scotia Police Act* Regulations. The parties agreed that this Board had full jurisdiction.

The complainant staff sergeant was Past President of the uniformed officers' union local of the Police Association of Nova Scotia (PANS), and Past President of PANS.

In or around February of 2002, the PANS local contract was being negotiated. A negotiating team was appointed by the PANS local's executive (The selection team did not include the staff sergeant and he was clearly upset by this circumstance. The Board concluded that on the morning in question, the staff sergeant was very focused on this issue when he arrived at the police station.

The named constable is a relatively junior member of the Truro Police Service. However, he has a university education, military training and was a military officer. The constable was at the time of the incident the current President of the PANS local and became the focus of the staff sergeant's ire.

On the morning of February 19, 2002, in the hallway between the dispatch and the squad room, the staff sergeant encountered the constable and ordered the constable into an office located close to the squad room. The Board found that the constable was resistant and challenged the staff sergeant's authority to order him into the office. Regardless, the constable did ultimately go into the office. The constable surmised that the purpose of the staff sergeant's order was because he was upset about not being on the union local's negotiation team and believed that the conversation which would ensue would only be about union business and not related to policing business. At the hearing, the staff sergeant stated that his intention had been to discuss union and other police business.

In a very short meeting, the staff sergeant did speak exclusively about union business. The Board found that the staff sergeant was fairly insistent that he be on the Union negotiating team. The constable quite correctly advised him that this was a union executive decision and was not something over which he as President had exclusive control. The staff sergeant appeared to the constable to be using his authority as a senior officer to assist in his lobbying efforts to get on the union negotiating team. The constable made attempts to, and did, excuse himself from the room without the specific consent of the staff sergeant. The staff sergeant pursued the constable into the squad room and gave a direct order that he return to the room, and the constable refused. This incident occurred in front of a junior constable working in the squad room.

The Board found that on the simplest of levels, the constable was insubordinate. The staff sergeant's allegation that the orders in themselves were lawful is correct, and therefore there was insubordination. Mr. Fisher on behalf of the constable argued that there was no insubordination because the orders were unlawful. The Board found that the orders were not unlawful, and the constable should have attended the office and remained in the office despite what was apparently a gross abuse of authority by the staff sergeant. The Board noted that the constable had the opportunity to make a disciplinary complaint against the staff sergeant in that the staff sergeant had engaged in discreditable conduct by using oppressive or abusive conduct or language towards him.

The Board found that technically there was an insubordination but concluded that the insubordination was inextricably linked to an abuse of authority by the staff sergeant. The Board ruled that it would be grossly unfair for this insubordination to go on the disciplinary record of the constable. Therefore, the complaint against the constable was dismissed.

The Board observed that having senior commanding officers in a PANS local can and will from time to time be problematic. The Board concluded that the evidence in these proceedings was that there was an inadequate level of separation between the PANS local business and the day to day functioning of the Department. Although the Board heard very limited evidence on the overall functioning of the Department, the Board recommended that the Truro Police Service look rigorously at the issue of separating union activity from the day to day functions of the Service.

Case No 4:	Appeal of a disciplinary decision as a result of an internal complaint
Nature of Complaint:	Insubordination: by word or action, or disobeying or omitting or neglecting to carry out a lawful order without adequate reason
Hearing Dates:	August 22 & 23, 2002
Before:	Mr. Brian Creighton - Chairman Mr. Orville Symonds - Member Ms. Marion Ferguson - Member
Counsel:	Mr. David Fisher on behalf of the named officer Mr. John Rafferty - on behalf of Truro Police Service
Date of Decision:	December 9, 2002

Summary of Decision: On February 7, 2001 a sergeant of the Truro Police Department filed a complaint of insubordination against a constable in the same department in relation to a February 2, 2001 incident. An internal investigation was conducted and the Chief rendered his decision, finding that the constable had committed the disciplinary default of insubordination contrary to Section 5(1)(b)(i) of the *Nova Scotia Police Act Regulations*. The constable was fined \$326.00.

On August 3, 2001 the constable appealed the Chief's decision to the Nova Scotia Police Review Board. The sergeant referred to in this decision is in charge of the Truro Police Service's "C" Platoon, overseeing a corporal and four constables; and he was promoted to his present position approximately one month prior to the date of incident.

On February 2, 2001 the sergeant and a corporal were working the night shift together and received a backup request from two constables advising that they needed assistance at Hero's Pub.

When the sergeant and corporal arrived at the scene, one man was already handcuffed in the back of a police car and was observed kicking at the interior screen in the police car. The prisoner was pepper-sprayed.

The sergeant and corporal transported the prisoner to the Colchester Correctional Centre, where they were later joined by the named constable of this appeal and

one other constable. There was some initial conversation which took place between the officers, concerning the type of charges that should be laid.

Generally, the named constable and his partner were of the view that the less serious *Liquor Control Act* was the appropriate charging statute, while the sergeant favored the more serious charges under the Criminal Code because of the difficulty the officers had in making the arrests. Namely, the physical force required to get the prisoner into the police vehicle, the prisoner's attempts to kick out the car screen, and the requirement of the officers to administer pepper spray to gain control.

The sergeant and the corporal transported one of the prisoners to the Correctional Centre. Upon leaving to respond to another call, the sergeant overheard the named constable comment to another constable that the sergeant was under too much stress and "couldn't handle (it)". The sergeant responded back to the constable over the radio that they would "...take it up later". The constable approached the sergeant's car, motioned for him to lower the window, and advised the sergeant that if he had something to say to him, he should say it to his face and not over the radio. The sergeant stated that the constable also told him that he did not deserve his sergeant stripes and that he was being "unprofessional" in his handling of the night's events.

The next contact between the two officers occurred approximately 20 minutes later in an office at police headquarters. The sergeant stated that the constable made numerous disrespectful comments to him and that the constable's demeanor at the time was agitated, confrontational and that his voice rose as the conversation continued. It was the sergeant's evidence that he thought at one point that the constable might get physical with him. When the constable left the office the sergeant overheard him state, "f--king rookie sergeants".

A short time later the constable came back to the office again. The sergeant indicated to the Board that he told the constable to leave several times and that the constable said to him, "Who the f--k do you think you are, the supreme commander or something?"

The sergeant acknowledged that he did become upset while speaking to one of the constables about the charges and had apologized to him. The sergeant agreed that the constables were the arresting officers and accordingly, were the appropriate authorities to make that decision as to charges. He stated that he also apologized to that constable.

In his evidence the named constable felt that the sergeant was inappropriately pressing the other constable to lay other charges. As the first officers at the scene he felt they had the information needed to assess what charges were appropriate.

The Chief gave evidence that he was aware of the bad blood between the constable and the sergeant and that he had previously arranged mediation between the two but that it had not proved successful.

The Board found that the essential facts of this case are not in dispute. While the precise words spoken in the several heated exchanges that evening between the sergeant and the constable varied slightly in witnesses' testimony, the stark fact of

the constable's clear disrespect and flagrant disregard for the sergeant and his position as a senior ranking officer was unassailable.

The Board stated in its decision that a police officer in this province has an obligation in his bearing, his language and in his attitude to be respectful of his senior officers.

The Board found that the constable was disrespectful and insubordinate at the Colchester County Correctional Centre and was exceptionally disrespectful and insubordinate during the confrontation/meeting that took place in the staff sergeant's office.

The Board ordered the constable to provide a written apology to the sergeant with an undertaking to be respectful and supportive to him and that the constable was to receive a two day suspension without pay. The Board further directed that if the constable did not provide the above ordered apology his suspension would be increased to seven days without pay.

Case No 5: Appeal of a decision as a result of a public complaint

Nature of Complaint: Descredible conduct: by acting in a disorderly manner or in a manner prejudicial to discipline or reasonably likely to bring discredit on the reputation of the police force

Hearing Dates: October 17, 2002

Before: Mr. Brian Creighton - Chairman
Mr. Brian McIntosh - Member
Ms. Marion Ferguson - Alternate Chair

Counsel: Mr. Patrick Duncan on behalf of the named officer
The Complainant on behalf of herself

Date of Decisions: November 27, 2002

Summary of Decision: On July 19, 2001 the complainant filed a public complaint against a constable of the Halifax Regional Police, alleging that on July 17, 2001, at 5:15 p.m. the constable:

"had phoned the complainant and upset complainant who was the victim in an RCMP sexual assault complaint."

The Deputy Chief reviewed the investigation report and met with the officer and determined that no disciplinary default had been committed by the officer. The complainant appealed this decision to the Nova Scotia Police Review Board.

The Board in its decision established that it was necessary at the outset, to note a matter which was not at issue before them but which was relevant to their consideration of the case.

It was alleged by the complainant that she was sexually assaulted by one Mr. "B", at her residence in Dartmouth, Nova Scotia, sometime in the early morning hours of Friday, July 13, 2001. This matter was investigated by the Royal Canadian Mounted Police, Cole Harbour Detachment, and was, at the time of the hearing before the court. As a result of the alleged sexual assault, the complainant stated that she

told Mr. "B" to leave her home, where he had been living for some considerable time as a paying boarder. On July 14, 2001, Mr. "B" complied with her direction, leaving behind certain personal belongings.

The complainant testified that prior to the July 13, 2001 incident, Mr. "B" had been her very good friend and through this friendship, she became aware that he was also good friends with the named constable.

The complainant's mother testified that on Tuesday, July 17, 2001, she received a call from the constable, requesting a suitable time to pick up Mr. "B"'s belongings from her daughter's home. The complainant told the constable that she would call her daughter and then "get back to him." She did and was told by her daughter that the constable could call her directly and "she would handle it." The complainant's mother called the constable back and relayed the instruction.

The constable then telephoned the complainant at her home. It is this conversation that gave rise to the complaint.

The complainant agreed that it was on her direction that the constable contacted her. She says that she called him "Jim" during this conversation and agrees that at no time did he refer to himself as Constable "A", or otherwise formally represent that he was calling on official police business for the Halifax Regional Police or any other policing agency.

However, because of their common friendship with Mr. "B", she knew he was a police officer. It was her evidence, that the constable's tone on the telephone was aggressive and that as the conversation proceeded, he told her that Mr. "B" had not yet been charged with any criminal offence by the RCMP, which was contradictory to information she had received from the RCMP.

The complainant testified that during the call, she repeatedly told the constable that she didn't want either him or Mr. "B" on her property, and that the officer should only come when her parents were in attendance to oversee the removal of the belongings. It was her feeling that the constable was using his position as a police officer to achieve certain ends, that his manner was intimidating and that, as a consequence he had "put fear into me".

In his testimony before the Board, the constable confirmed that he and Mr. "B" were friends and that he had called the complainant's mother in an effort to make arrangements to retrieve his friend's work clothes. He took from the complainant's tone that she was not pleased to hear from him. He indicated to the Board, that in the circumstances, he could understand her unfriendly tone. His singular "focus" was on making arrangements to get his friend's belongings and that he did not contact the complainant as a police officer but rather as a friend of Mr. "B"s.

In his submission on his client's behalf, Mr. Patrick Duncan indicated that when the constable made the call his intentions were good, that he was not on duty at the time and that the calls were made from his private residence. At no time did he use inappropriate or foul language, nor did he refer to himself in an official role of peace officer.

The Board accepted that the constable originally intended to speak only with the complainant's mother to discuss the removal of his friend's things and that it was only on the complainant's instructions that he called her directly. The Board found that his actions were in the very least naive and misguided. Although the constable was off duty at the time, he should have contemplated that a civilian would view his involvement as that of a "police officer" not as another civilian trying to help a friend. His police officer status was reinforced when he used his legal knowledge to inform the Complainant of his friend's rights and status with regard to the charge. This was understandably upsetting and intimidating to the complainant.

The Board accepted the complainant's evidence that the constable was persistent in advancing his agenda of obtaining Mr. "B"'s belongings, even in the face of her insistence that neither he nor his friend was welcome at her home. At the very least, when it became apparent to the constable that he was not going to achieve his goal of arranging the pick up of his friend's things, he should have ended the call.

However, after reviewing the evidence and hearing from the complainant and the constable both of whom the Board found to be credible witnesses, and who gave their evidence in a forthright manner, the Board found that the constable did not commit a disciplinary default within the meaning of the *Regulations*. His decision to continue the conversation when it was evidently counter-productive was imprudent and ill advised. However, it was not of serious enough consequence to bring it within the meaning of discreditable conduct as contemplated by the *Act*.

Accordingly, the Board found that a disciplinary default did not occur and the appeal was dismissed.

Source: Adapted from Statistics Canada, Police Resources in Canada 2003, catalogue no 85-225-X1E, reference period 2003 and found on page(s) 38 & 39

Nova Scotia 2002 Police Resources & Population

Police Force		Police Officers				Population per Police Officer	Other Personnel	Total Operating Cost
	Population	Male	Female	Total				
Population (100,000+)								
Halifax Regional	200,928	353	49	402	500	187	39,129,482	
Population (15,000 - 49,999)								
Cape Breton Regional (1)	108,885	172	5	177	615	60	14,968,822	
Population (5,000 - 14,999)								
Amherst	9,623	22	1	23	418	10	2,022,892	
Bridgewater	7,815	19	1	20	391	8	1,609,344	
Kentville	5,530	14	2	16	346	1	1,267,700	
New Glasgow (2)	10,019	...	...	...	...	...	1,881,245	
Truro	13,253	28	4	32	414	19	2,444,947	
Westville (2)	3,793	...	...	...	...	...	622,416	
Population (<5,000)								
Annapolis Royal	537	3	0	3	179	0	134,601	
Springhill	3,988	7	0	7	570	6	900,672	
Stellarton	4,801	10	0	10	480	9	1,023,602	
Trenton	3,026	7	0	7	432	7	723,601	

.. Not available for a specific reference period ... not applicable

(1) In 2002, this force enlarged its jurisdiction hence comparisons with previous years should be made with caution.

(2) Previously presented as New Glasgow/Westville

Use caution in comparing forces: The number of officers may not reflect the number available for general community policing because some officers in certain communities are restricted to specific locations (e.g. ports, airports). Operational expenditures may vary considerably between police services for many reasons.

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